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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,460	12/21/2001	Rex D. Davidson	2146.01C	1548

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EXAMINER
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SINGH, SUNIL

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 01/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/027,460

Applicant(s)

DAVIDSON, REX D.

Examiner

Sunil Singh

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 5, 7 and 8 is/are allowed.
- 6) ☒ Claim(s) 4 and 6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### DETAILED ACTION

The finality of office action mailed 5/20/03 has been withdrawn. The following rejection now applies.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frisbee in view of Moriarty (US 4986377).

Frisbee disclosed a machine (12) comprising a machine frame having a longitudinal reference axis which is fixed in relation to said frame, left and right wheels (this is considered as the wheels that supports member (16) in the rear, note a front wheel is depicted in Figure 2; however, the rear wheels are not shown and this is what the examiner is considering as the left and right wheels for supporting the rear of the frame) supporting a rear of the frame above the floor and oriented to propel the frame across the floor in a direction parallel to said reference axis, left and right arms (20,22) journaled ((24), see Fig. 1) on said frame for independent rotation of said arms about an axis transverse to said reference axis (see col. 3 line 66) and forward of said left and right wheels (see Fig. 2), and a blade assembly having a floor scraping edge, said assembly being pivotally connected to said left and right arms (see Fig. 2) for independent rotation on blade assembly axes transverse to said reference axis with said scraping edge extending transverse to said reference axis. Left and right pistons and cylinders (72,74), pivotally connected at one end to the left and right arms (see Fig.

1) and pivotally connected at their other end to the blade (see Fig. 2). Frisbee discloses the invention substantially as claimed. However, Frisbee is silent about the left and right wheels that support the rear of the frame are drive wheels. Moriarty teaches left and right wheels that support the rear of a frame are drive wheels (22). It would have been considered obvious to one of ordinary skill in the art to modify Frisbee by making his left and right wheels that support the rear of the frame the drive wheels as taught by Moriarty since such an arrangement is conventional.

### ***Response to Arguments***

3. Applicant's arguments with respect to claim 4 have been considered but are moot in view of the new ground(s) of rejection. Nevertheless, the examiner would like to address some of applicant's arguments. Applicant argues that Frisbee teaches no wheels at all. This is clearly incorrect. The examiner has cited the Moriarty reference to clearly illustrate what was not depicted in Figure 2 of the Frisbee reference because it is notoriously conventional that there is a drive wheel rear of the "pivot" (24) of the Frisbee reference. See reference character (22) of the Moriarty reference as well as col. 4 lines 1 and 29 of the same reference.

### ***Allowable Subject Matter***

4. Claims 1-3, 5, 7-8 are allowed.

### ***Conclusion***


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil Singh whose telephone number is (703) 308-4024. The examiner can normally be reached on Monday through Friday 8:30 AM-5:00 PM.

Art Unit: 3673

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

Sunil Singh

  
Patent Examiner  
Art Unit 3673

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1/9/04